

LAWS
OF THE
TERRITORY OF HAWAII
PASSED BY THE
FOURTEENTH LEGISLATURE

REGULAR SESSION
1927

COMMENCED ON WEDNESDAY, THE SIXTEENTH
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EXHIBIT "E"

ACT 206]

"SMALL ARMS ACT."

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ACT 206

[H. B. No. 322]

AN ACT REGULATING THE SALE, TRANSFER AND POSSESSION OF CERTAIN FIREARMS AND AMMUNITIONS, AND AMENDING SECTIONS 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2146 AND 2147 OF THE REVISED LAWS OF HAWAII 1925.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Definitions. "Pistol" or "revolver" as used in this Act, means any firearm with barrel less than twelve inches in length.

"Crime of Violence", as used in this Act means any of the following crimes, namely, murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, larceny, burglary and house-breaking.

SECTION 2. Committing crime when armed. If any person, when armed with a pistol or revolver, shall commit or attempt to commit an act constituting a crime of violence, he may in addition to the punishment otherwise provided for the crime, be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars (\$1,000.00) or by both; provided, that the act aforesaid be one which is capable of being committed or facilitated by means of a pistol or revolver.

SECTION 3. Being armed prima facie evidence of intent. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a pistol or revolver and had no license to carry the same, shall be prima facie evidence of his intention to commit said crime of violence; provided, that the criminal act committed or attempted be one which is capable of being committed or facilitated by means of a pistol or revolver.

SECTION 4. Persons forbidden to possess small arms. No person who has been convicted in this territory, or elsewhere, of having committed or attempted a crime of violence, shall own or have in his possession or under his control, a pistol or revolver.

SECTION 5. Carrying or keeping small arms by unlicensed persons. Except as otherwise provided in Sections 7 and 11 hereof in respect of certain licensees, no person shall carry, keep, possess or have under his control a pistol or revolver; provided, how-

ever, that any person who shall have lawfully acquired the ownership or possession of a pistol or revolver may, for purposes of protection and with or without a license, keep the same in the dwelling house or business office personally occupied by him, and, in case of an unlawful attack upon any person or property in said house or office, said pistol or revolver may be carried in any lawful, hot pursuit of the assailant.

SECTION 6. Exceptions. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen, mail carriers, or other duly appointed law enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States, or of the National Guard, when on duty, or of organizations by law authorized to purchase or receive such weapons from the United States or this territory, or to officers or employees of the United States authorized by law to carry a concealed pistol or revolver, or to duly authorized military organizations when on duty, or to the members thereof when at or going to or from their customary places of assembly, or to the regular and ordinary transportation of pistols or revolvers as merchandise, or to any person while carrying a pistol or revolver unloaded in a wrapper from the place of purchase to his home or place of business, or to a place of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

SECTION 7. Issue of licenses to carry. The judge of a court of record or the sheriff of a county, or city and county, shall, upon the application of any person having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol or revolver concealed upon his person or to carry one elsewhere than in his home or office, said license being issued by the authorities of any state or political subdivision of the United States, issue a license to such person to carry a pistol or revolver within this territory elsewhere than in his home or office, for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol or revolver, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the treasurer of the territory, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee; the duplicate shall, within seven days, be sent by registered mail, to the treasurer of the territory and the

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triplicate shall be preserved for six years by the authority issuing said license.

SECTION 8. Selling to minors. No person shall sell, barter, hire, lend, or give any pistol or revolver to any person under the age of eighteen years.

SECTION 9. Transfers regulated. No person shall transfer by way of sale, gift, loan or otherwise, a pistol or revolver unless the prospective transferee, when he applies for the transfer, presents a permit duly granted under Section 2141 of the Revised Laws of Hawaii, 1925; nor shall he make such transfer unless the transferee be a person in respect of whom there is no reasonable cause, known to the transferor, for believing that such transferee has committed or attempted, or has been convicted of committing or attempting, a crime of violence. No seller shall in any event deliver a pistol or revolver on the day when the application to purchase and the statement hereinafter mentioned shall be made. When delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, race, nationality, color, and place of birth, the date of sale, the caliber, make, model, and manufacturer's number of the weapon, and stating that he has never been convicted of a crime of violence. The seller shall promptly sign and forward by registered mail one copy thereof to the treasurer of the territory, and one copy thereof to the sheriff of the county or city and county of which the seller is a resident, and shall retain the other copy for six years. A statement shall be deemed promptly forwarded if it is forwarded within seven days, unless a shorter time is provided therefor in regulations established by the Governor.

SECTION 10. Dealers to be licensed. No retail dealer or selling agent shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol or revolver without being licensed as hereinafter provided.

SECTION 11. Dealers' Licenses; by whom granted, and conditions thereof. The duly constituted licensing authorities of any political subdivision of this territory may grant licenses in form prescribed by the treasurer of the territory, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

4. The seller shall faithfully comply with the requirements of Section 9 hereof and with all other provisions of this Act and of Chapter 128, Revised Laws of Hawaii 1925. A copy of the statement required by Section 9 hereof shall be entered by the seller in a book of record to be kept in his place of business and to be always open to the inspection of the officers and authorized representatives of the territorial government, including the police. Said book shall be preserved for six years.

5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

No license to sell at retail shall be granted to anyone except as provided in this section.

SECTION 12. False information forbidden. No person shall, in purchasing or otherwise securing delivery of a pistol or revolver, or in applying for a license to carry the same, give false information or offer false evidence of his identity.

SECTION 13. Alteration of identifying marks prohibited. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any pistol or revolver. Possession of any pistol or revolver upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

SECTION 14. Existing licenses revoked. All licenses heretofore issued within this territory permitting the carrying of pistols or revolvers shall expire at midnight of the 30th day of June, 1927.

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SECTION 15. Exceptions. This Act shall not apply to antique pistols or revolvers unsuitable for use as firearms.

SECTION 16. Act supersedes local laws. The provisions of this Act shall be effective and controlling throughout this territory, notwithstanding the provisions of any local law or ordinance.

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SECTION 17. Penalties. Any violation of any provision of this Act shall constitute an offense punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one year, or both.

SECTION 18. Section 2136 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2136. Report upon acquiring title to or possession of firearms or ammunition. Except as otherwise provided by law, any person, firm, corporation or copartnership, residing or doing business within the territory acquiring title or possession or importing into (by express or otherwise) or receiving within the territory any firearm or any ammunition, capable of causing death or inflicting great personal injury, who shall fail to file a description of the same in the manner provided by this chapter, shall be deemed guilty of a misdemeanor and punished as this chapter provides. Except in so far as the acquisition of title to or possession of a firearm or of ammunition may be reported by the dealer or selling agent under the provisions of Section 2140 hereof, such person, firm, corporation or copartnership shall, within two weeks after such acquisition, importation or receipt, file a report with the sheriff of the county or city and county wherein his or its place of business, or if there be none within the territory, his or its residence, or if there be neither residence nor place of business therein, his place of sojourn therein, is located. Said report shall include a description of the class of firearm or firearms or/and ammunition owned by him, it or them or in his, its or their possession, which description shall set forth the class of firearm or firearms or/and ammunition so owned and possessed, together with the name of the maker and the factory number, when such number appears on such firearm or firearms or ammunition.

The Governor may, in his discretion, require the filing in like manner, at a time or at times to be fixed by him, of like reports by all persons, firms, corporations or copartnerships owning or possessing, at a date or at dates to be announced by the Governor, any firearm or ammunition within this territory; provided, that at least one month shall expire between the publication or announcement of the Governor's said requirement and the time fixed for filing. Where any person responsible for making a report hereunder is unable to furnish all of the information herein or hereby required, he shall furnish as much as may be possible and in such manner as may be required by the sheriff."

SECTION 19. Section 2137 of the Revised Laws of Hawaii 1925, is hereby amended by inserting the words "acquired or" before the words "in possession," in the caption preceding the required form.

Strike out the words "owned by him or in my possession" appearing in the certificate in the required form, and insert in lieu thereof the words "acquired, imported or otherwise received by me." At the end of Section 2137, add the following: "Note: In case a special report is required by the Governor under the terms of this section, the person making the report should strike out the words "acquired, imported or otherwise received by me" and insert in lieu thereof, the words "owned by me or in my possession."

SECTION 20. Section 2138 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2138. Information required and furnished Governor. It shall be the further duty of the sheriff to enter in a book to be provided for such purpose, all information thus furnished him relative to the ownership, acquisition, importation, delivery and possession of firearms and ammunition, which book shall be an exact duplication of the descriptions furnished, and, further, to furnish to the Governor not later than the 20th day of January and the 20th day of July of each and every year, an exact report, a complete copy of the description and information so furnished as aforesaid and as required by Sections 2139 and 2140 hereof."

SECTION 21. Section 2139 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2139. Further information. It shall be the duty of every person, firm, corporation, copartnership, dealing in firearms or/and ammunition at wholesale or at retail, including commission merchants and selling agents, to furnish to the sheriff of the county or city and county in which such person resides, or wherein such business is carried on, on the first day of January and the first day of July of each and every year, a list of all firearms and ammunition in his, their or its possession, and likewise at the times mentioned, furnish to such sheriff a list of all arms brought into the territory, in transit or otherwise, by him, them or it during the six months next preceding such date upon which such list and description is required to be filed; the lists thus to be furnished by such dealers in firearms and ammunition shall comply as nearly as possible with the requirements of Sections 2136 and 2137, as may be determined by such sheriff.

It shall be the duty of the sheriff to inspect the shops, stores, warehouses and other business premises of such dealers, commission merchants and selling agents, to verify the accuracy of the reports made and to ascertain whether any required reports have been omitted."

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SECTION 22. Section 2140 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2140. Sale of firearms or ammunition; report. Whenever any person, firm, corporation, copartnership, dealing in or keeping for sale firearms or ammunition, shall make a sale of any firearms or ammunition or shall in any manner dispose of the same to any person, it shall be the duty of such person, firm, corporation, copartnership, promptly to make an official written report of said transaction and to include therein such information as shall satisfy the requirements of this chapter. A report shall be deemed promptly made, if it is forwarded within seven days, unless a shorter time is provided therefor in regulations established by the Governor. As to a sale of firearms of any size or class whatever, said report shall conform, in respect of the manner of signing, of the information included, of the officials to whom it shall be forwarded and of all other particulars, with the requirements prescribed as to a sale of pistols or revolvers by Sections 9 and 11 of the Small Arms Act and a record of the facts contained in said report shall be made in the book required by Section 11 of the Small Arms Act or in a similar book of record, open to inspection by any proper officer or his representative. As to a sale of ammunition, said report shall be made to the sheriff of the county wherein the sale or disposition thereof takes place; it shall contain (1) the name of the owner; (2) in case of a sale, the names of vendor and vendee; (3) the name of the recipient of the ammunition, in the event that it be delivered to some one other than the vendee or his employee; (4) the date of the sale or disposition; and (5) a description of the character and quantity of such ammunition."

SECTION 23. Section 2141 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2141. No delivery without permit to acquire. No person owning, possessing or entitled to dispose of a firearm of any class, whether or not he be a dealer in firearms, shall deliver a firearm to another person, unless the latter present a permit, in duplicate, authorizing the acquisition by him of a firearm of the kind or class to be delivered and bearing date on a day during the preceding thirty days. Such permits shall be issued by the sheriff of the county or city and county wherein the applicant resides, or, in the case of non-residents, by the sheriff of the county of his sojourn; provided (1) that the applicant is found not to be a habitual criminal or a person who has been convicted in a court of the territory, or in any other court, of having committed or attempted a crime of violence, as that phrase is defined in the Small Arms Act; and (2) that the applicant is found not to be an

anarchist or a person who desires the overthrow of the government of the United States or the diminution of its territory or domain or a person who, if armed, would tend to imperil or weaken the government of the United States or of the territory. The person making delivery of any firearm, whether by virtue of a sale, a gift, a loan or otherwise, shall send to the proper sheriff, by registered mail, one copy of the permit, presented to him as aforesaid; such sheriff being the one by whom the permit was issued. The other copy of the permit shall, for sixty days, be retained by the person making delivery as aforesaid. Such permit shall be subject to inspection by any sheriff or officer of the law or his representative; and it shall be the duty of the person making delivery of the firearm to answer, to the best of his ability, orally, or in writing, (as may be required) any reasonable questions by a proper officer or his representative concerning the identity or description of the firearm so delivered."

SECTION 24. Section 2142 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2142. Penalties. Any person who shall deliver or receive a firearm without complying with the requirements of Section 2141, and any person who shall otherwise violate any provision of said section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

Any person furnishing information leading to the conviction of any person violating any provision of Section 2141 shall be paid an amount equal to one-half of the fine that may be imposed against the person convicted."

SECTION 25. Section 2143 of the Revised Laws of Hawaii 1925, is hereby amended by inserting, after the first sentence in said section, the following: "The request aforesaid shall include (1) an expression of the belief of such citizens that the applicant has never committed or attempted a crime of violence, as that phrase is defined in the Small Arms Act; that he has never been convicted thereof anywhere and that he is not likely to commit or attempt any such crime and (2) a brief statement of the facts relating to the age, character, nativity and personal history of the applicant, insofar as these facts are within the personal knowledge of such responsible citizens. Such facts as are within the personal knowledge of one of them, only, shall be included in a supplemental written statement signed by the person having such knowledge."

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SECTION 26. Section 2146 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2146. Penalties. Any person who shall be found in the possession of any firearm or firearms or any ammunition without having complied with the provisions of this chapter, or who shall fail to give, file or forward required information, reports or statements, or who shall otherwise violate the provisions of this chapter in matters not covered by Section 2142 hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined by the court of appropriate jurisdiction in a sum of not more than five hundred dollars (\$500.00). Any person, firm, corporation, copartnership, failing to file any information herein required to be filed, shall be deemed guilty of a misdemeanor and upon conviction shall be fined by the court of appropriate jurisdiction not more than five hundred dollars (\$500.00).

The divulging of official information recorded or on file in a public office shall be punishable in like manner; provided, however, that where the information divulged has not tended, or been designed to encourage, or to render formidable armed resistance to the law, the fine shall not exceed twenty-five dollars (\$25.00)."

SECTION 27. Section 2147 of the Revised Laws of Hawaii 1925, is hereby amended to read as follows:

"Section 2147. Exceptions. The requirements and provisions of this Chapter shall not apply to those who, under Section 6 of the Small Arms Act, are excepted from the provisions of Section 5 of that Act."

SECTION 28. Constitutionality. If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

SECTION 29. Short title. The first seventeen sections of this Act are herein referred to as the "Small Arms Act," by which designation such sections may be cited.

SECTION 30. Certain Acts repealed. All laws or parts of laws inconsistent herewith are hereby repealed, but the provisions of Chapter 128, Revised Laws of Hawaii 1925, are not repealed hereby, except where plainly inconsistent herewith.

SECTION 31. This Act shall take effect from and after July 1, 1927.

Approved this 27th day of April, A. D. 1927.

W. R. FARRINGTON,
Governor of the Territory of Hawaii.